

DARIN RANKIN and
CARL BREWER

Plaintiffs,

v.

COUNTY OF GRUNDY,
ROBERT MEEKS, individually and in his
official capacity as Sheriff,
SCOTT DIXON, individually and in his
official capacity,
DENNIS WOMACK, individually and in his
official capacity,

Defendants.

NO. 4:03-CV-96

The Defendant, Scott Dickson (misspelled as “Dixon” above), pursuant to Fed. R. Civ. P. 12(b)(6), moves to dismiss Plaintiffs' § 1983 claim against Defendant in his official capacity and the state claim against him in his individual and official capacities. The Plaintiffs’ federal claims against the Defendant in his official capacity are the functional equivalent of a suit against the State of Tennessee, and are barred by the Eleventh Amendment. In addition, Defendant Dickson in his official capacity is not a “person” for purposes of a § 1983 claim. The Plaintiffs’ claims based on alleged violations of Article I, §7, of the Tennessee Constitution must be dismissed because Tennessee has not recognized a private cause of action based upon alleged violations of the Tennessee Constitution, Defendant Dickson as a state employee is immune from such claims

under T.C.A. § 9-8-307(h), and under the doctrine of sovereign immunity.

Defendant Scott Dickson relies upon a contemporaneously filed Memorandum in Support of this Motion to Dismiss.

Respectfully submitted,

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Attorney General and Reporter

s/Rebecca Lyford
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CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2005, a true and correct copy of the foregoing was filed electronically and notice of filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt including Michelle M. Benjamin, Esq., 201 First Avenue, North, P. O. Box 177, Winchester, TN 37398, and Thomas LeQuire, Suite 407, 735 Broad Street, Chattanooga, TN 37402. Parties may access this filing through the Court's electronic filing system.

s/ Rebecca Lyford
Rebecca Lyford
Assistant Attorney General